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ENGROSSED SUBSTITUTE HOUSE BILL 1820

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State of Washington

54th Legislature

1995 Regular Session

By House Committee on Transportation (originally sponsored by Representative K. Schmidt)

Read first time 03/06/95.

1 AN ACT Relating to towing vehicles; amending RCW 46.55.063,  
2 46.55.090, 46.55.100, 46.55.110, 46.55.120, 46.55.140, 46.20.435, and  
3 46.61.625; adding a new section to chapter 46.37 RCW; adding a new  
4 section to chapter 46.55 RCW; and prescribing penalties.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 46.37 RCW  
7 to read as follows:

8 (1) "Safety chains" means flexible tension members connected from  
9 the front portion of the towed vehicle to the rear portion of the  
10 towing vehicle for the purpose of retaining connection between towed  
11 and towing vehicle in the event of failure of the connection provided  
12 by the primary connecting system, as prescribed by rule of the  
13 Washington state patrol.

14 (2) The term "safety chains" includes chains, cables, or wire  
15 ropes, or an equivalent flexible member meeting the strength  
16 requirements prescribed by rule of the Washington state patrol.

17 (3) A tow truck towing a vehicle and a vehicle towing a trailer  
18 must use safety chains. Failure to comply with this section is a class  
19 1 civil infraction punishable under RCW 7.80.120.

1        NEW SECTION.    **Sec. 2.**    A new section is added to chapter 46.55 RCW  
2 to read as follows:

3        A vehicle engaging in the recovery of disabled vehicles primarily  
4 for monetary compensation, from or on a public road or highway must  
5 either be operated by a registered tow truck operator, or someone who  
6 at a minimum has insurance in a like manner and amount as prescribed in  
7 RCW 46.55.030(3), and have had their tow trucks inspected in a like  
8 manner as prescribed by RCW 46.55.040(1). The department shall adopt  
9 rules to enforce this section. Failure to comply with this section is  
10 a class 1 civil infraction punishable under RCW 7.80.120.

11        **Sec. 3.**    RCW 46.55.063 and 1989 c 111 s 7 are each amended to read  
12 as follows:

13        (1) An operator shall file a fee schedule with the department. All  
14 filed fees must be adequate to cover the costs of service provided. No  
15 fees may exceed those filed with the department. At least ten days  
16 before the effective date of any change in an operator's fee schedule,  
17 the registered tow truck operator shall file the revised fee schedule  
18 with the department.

19        (2) Towing contracts with private property owners shall be in  
20 written form and state the hours of authorization to impound, the  
21 persons empowered to authorize the impounds, and the present charge of  
22 a private impound for the classes of tow trucks to be used in the  
23 impound, and must be retained in the files of the registered tow truck  
24 operator for three years.

25        (3) A fee that is charged for tow truck service must be calculated  
26 on an hourly basis, and after the first hour must be charged to the  
27 nearest quarter hour.

28        (4) ~~((A))~~ Fees that ~~((is))~~ are charged for the storage of a  
29 vehicle, or for other items of personal property registered or titled  
30 with the department, must be calculated on a twenty-four hour basis and  
31 must be charged to the nearest half day from the time the vehicle  
32 arrived at the secure storage area. However, items of personal  
33 property registered or titled with the department that are wholly  
34 contained within an impounded vehicle are not subject to storage fees.

35        (5) All billing invoices that are provided to the redeemer of the  
36 vehicle, or other items of personal property registered or titled with  
37 the department, must be itemized so that the individual fees are  
38 clearly discernable.

1       **Sec. 4.** RCW 46.55.090 and 1989 c 178 s 25 are each amended to read  
2 as follows:

3       (1) All vehicles impounded shall be taken to the nearest storage  
4 location that has been inspected and is listed on the application filed  
5 with the department.

6       (2) All vehicles shall be handled and returned in substantially the  
7 same condition as they existed before being towed.

8       (3) All personal belongings and contents in the vehicle, with the  
9 exception of those items of personal property that are registered or  
10 titled with the department, shall be kept intact, and shall be returned  
11 to the vehicle's owner or agent during normal business hours upon  
12 request and presentation of a driver's license or other sufficient  
13 identification. Personal belongings, with the exception of those items  
14 of personal property that are registered or titled with the department,  
15 shall not be sold at auction to fulfill a lien against the vehicle.

16       (4) All personal belongings, with the exception of those items of  
17 personal property that are registered or titled with the department,  
18 not claimed before the auction shall be turned over to the local law  
19 enforcement agency to which the initial notification of impoundment was  
20 given. Such personal belongings shall be disposed of pursuant to  
21 chapter 63.32 or 63.40 RCW.

22       (5) Tow truck drivers shall have a Washington state driver's  
23 license endorsed for the appropriate classification under chapter 46.25  
24 RCW or the equivalent issued by another state.

25       (6) Any person who shows proof of ownership or written  
26 authorization from the impounded vehicle's registered or legal owner or  
27 the vehicle's insurer may view the vehicle without charge during normal  
28 business hours.

29       **Sec. 5.** RCW 46.55.100 and 1991 c 20 s 1 are each amended to read  
30 as follows:

31       (1) At the time of impoundment the registered tow truck operator  
32 providing the towing service shall give immediate notification, by  
33 telephone or radio, to a law enforcement agency having jurisdiction who  
34 shall maintain a log of such reports. A law enforcement agency, or a  
35 private communication center acting on behalf of a law enforcement  
36 agency, shall within six to twelve hours of the impoundment, provide to  
37 a requesting operator the name and address of the legal and registered  
38 owners of the vehicle, and the registered owner of any personal

1 property registered or titled with the department that is attached to  
2 or contained in or on the impounded vehicle, the vehicle identification  
3 number, and any other necessary, pertinent information. The initial  
4 notice of impoundment shall be followed by a written or electronic  
5 facsimile notice within twenty-four hours. In the case of a vehicle  
6 from another state, time requirements of this subsection do not apply  
7 until the requesting law enforcement agency in this state receives the  
8 information.

9 (2) The operator shall immediately send an abandoned vehicle report  
10 to the department for any vehicle, and for any items of personal  
11 property registered or titled with the department, that are in the  
12 operator's possession after the ninety-six hour abandonment period.  
13 Such report need not be sent when the impoundment is pursuant to a  
14 writ, court order, or police hold. The owner notification and  
15 abandonment process shall be initiated by the registered tow truck  
16 operator immediately following notification by a court or law  
17 enforcement officer that the writ, court order, or police hold is no  
18 longer in effect.

19 (3) Following the submittal of an abandoned vehicle report, the  
20 department shall provide the registered tow truck operator with owner  
21 information within seventy-two hours.

22 (4) Within fifteen days of the sale of an abandoned vehicle at  
23 public auction, the towing operator shall send a copy of the abandoned  
24 vehicle report showing the disposition of the abandoned vehicle and any  
25 other items of personal property registered or titled with the  
26 department to the crime information center of the Washington state  
27 patrol.

28 (5) If the operator sends an abandoned vehicle report to the  
29 department and the department finds no owner information, an operator  
30 may proceed with an inspection of the vehicle and any other items of  
31 personal property registered or titled with the department to determine  
32 whether owner identification is within the vehicle.

33 (6) If the operator finds no owner identification, the operator  
34 shall immediately notify the appropriate law enforcement agency, which  
35 shall search the vehicle and any other items of personal property  
36 registered or titled with the department for the vehicle identification  
37 number or other appropriate identification numbers and check the  
38 necessary records to determine the vehicle's or other property's  
39 owners.

1       **Sec. 6.** RCW 46.55.110 and 1989 c 111 s 10 are each amended to read  
2 as follows:

3       (1) When an unauthorized vehicle is impounded, the impounding  
4 towing operator shall notify the legal and registered owners of the  
5 impoundment of the unauthorized vehicle and the owners of any other  
6 items of personal property registered or titled with the department.  
7 The notification shall be sent by first-class mail within twenty-four  
8 hours after the impoundment to the last known registered and legal  
9 owners of the vehicle, and the owners of any other items of personal  
10 property registered or titled with the department, as provided by the  
11 law enforcement agency, and shall inform the owners of the identity of  
12 the person or agency authorizing the impound. The notification shall  
13 include the name of the impounding tow firm, its address, and telephone  
14 number. The notice shall also include the location, time of the  
15 impound, and by whose authority the vehicle was impounded. The notice  
16 shall also include the written notice of the right of redemption and  
17 opportunity for a hearing to contest the validity of the impoundment  
18 pursuant to RCW 46.55.120.

19       (2) In the case of an abandoned vehicle, or other item of personal  
20 property registered or titled with the department, within twenty-four  
21 hours after receiving information on the ((vehicle)) owners from the  
22 department through the abandoned vehicle report, the tow truck operator  
23 shall send by certified mail, with return receipt requested, a notice  
24 of custody and sale to the legal and registered owners.

25       (3) No notices need be sent to the legal or registered owners of an  
26 impounded vehicle or other item of personal property registered or  
27 titled with the department, if the vehicle or personal property has  
28 been redeemed.

29       **Sec. 7.** RCW 46.55.120 and 1993 c 121 s 3 are each amended to read  
30 as follows:

31       (1) Vehicles or other items of personal property registered or  
32 titled with the department that are impounded by registered tow truck  
33 operators pursuant to RCW 46.55.080, 46.55.085, or 46.55.113 may be  
34 redeemed only under the following circumstances:

35       (a) Only the legal owner, the registered owner, a person authorized  
36 in writing by the registered owner or the vehicle's insurer, a person  
37 who is determined and verified by the operator to have the permission  
38 of the registered owner of the vehicle or other item of personal

1 property registered or titled with the department, or one who has  
2 purchased a vehicle or item of personal property registered or titled  
3 with the department from the registered owner who produces proof of  
4 ownership or written authorization and signs a receipt therefor, may  
5 redeem an impounded vehicle or items of personal property registered or  
6 titled with the department.

7 (b) The vehicle or other item of personal property registered or  
8 titled with the department shall be released upon the presentation to  
9 any person having custody of the vehicle of commercially reasonable  
10 tender sufficient to cover the costs of towing, storage, or other  
11 services rendered during the course of towing, removing, impounding, or  
12 storing any such vehicle. Commercially reasonable tender shall  
13 include, without limitation, cash, major bank credit cards, or personal  
14 checks drawn on in-state banks if accompanied by two pieces of valid  
15 identification, one of which may be required by the operator to have a  
16 photograph. If the towing firm can determine through the customer's  
17 bank or a check verification service that the presented check would not  
18 be paid by the bank or guaranteed by the service, the towing firm may  
19 refuse to accept the check. Any person who stops payment on a personal  
20 check or credit card, or does not make restitution within ten days from  
21 the date a check becomes insufficient due to lack of funds, to a towing  
22 firm that has provided a service pursuant to this section or in any  
23 other manner defrauds the towing firm in connection with services  
24 rendered pursuant to this section shall be liable for damages in the  
25 amount of twice the towing and storage fees, plus costs and reasonable  
26 attorney's fees.

27 (2)(a) The registered tow truck operator shall give to each person  
28 who seeks to redeem an impounded vehicle, or item of personal property  
29 registered or titled with the department, written notice of the right  
30 of redemption and opportunity for a hearing, which notice shall be  
31 accompanied by a form to be used for requesting a hearing, the name of  
32 the person or agency authorizing the impound, and a copy of the towing  
33 and storage invoice. The registered tow truck operator shall maintain  
34 a record evidenced by the redeeming person's signature that such  
35 notification was provided.

36 (b) Any person seeking to redeem an impounded vehicle under this  
37 section has a right to a hearing in the district court for the  
38 jurisdiction in which the vehicle was impounded to contest the validity  
39 of the impoundment or the amount of towing and storage charges. The

1 district court has jurisdiction to determine the issues involving all  
2 impoundments including those authorized by the state or its agents.  
3 Any request for a hearing shall be made in writing on the form provided  
4 for that purpose and must be received by the district court within ten  
5 days of the date the opportunity was provided for in subsection (2)(a)  
6 of this section. If the hearing request is not received by the  
7 district court within the ten-day period, the right to a hearing is  
8 waived and the registered owner is liable for any towing, storage, or  
9 other impoundment charges permitted under this chapter. Upon receipt  
10 of a timely hearing request, the district court shall proceed to hear  
11 and determine the validity of the impoundment.

12 (3)(a) The district court, within five days after the request for  
13 a hearing, shall notify the registered tow truck operator, the person  
14 requesting the hearing if not the owner, the registered and legal  
15 owners of the vehicle or other item of personal property registered or  
16 titled with the department, and the person or agency authorizing the  
17 impound in writing of the hearing date and time.

18 (b) At the hearing, the person or persons requesting the hearing  
19 may produce any relevant evidence to show that the impoundment, towing,  
20 or storage fees charged were not proper.

21 (c) At the conclusion of the hearing, the district court shall  
22 determine whether the impoundment was proper, whether the towing or  
23 storage fees charged were in compliance with the posted rates, and who  
24 is responsible for payment of the fees. The court may not adjust fees  
25 or charges that are in compliance with the posted or contracted rates.

26 (d) If the impoundment is found proper, the impoundment, towing,  
27 and storage fees as permitted under this chapter together with court  
28 costs shall be assessed against the person or persons requesting the  
29 hearing, unless the operator did not have a signed and valid  
30 impoundment authorization from a private property owner or an  
31 authorized agent.

32 (e) If the impoundment is determined to be in violation of this  
33 chapter, then the registered and legal owners of the vehicle or other  
34 item of personal property registered or titled with the department  
35 shall bear no impoundment, towing, or storage fees, and any security  
36 shall be returned or discharged as appropriate, and the person or  
37 agency who authorized the impoundment shall be liable for any towing,  
38 storage, or other impoundment fees permitted under this chapter. The  
39 court shall enter judgment in favor of the registered tow truck

1 operator against the person or agency authorizing the impound for the  
2 impoundment, towing, and storage fees paid. In addition, the court  
3 shall enter judgment in favor of the registered and legal owners of the  
4 vehicle, or other item of personal property registered or titled with  
5 the department, for reasonable damages for loss of the use of the  
6 vehicle during the time the same was impounded, for not less than fifty  
7 dollars per day, against the person or agency authorizing the impound.  
8 If any judgment entered is not paid within fifteen days of notice in  
9 writing of its entry, the court shall award reasonable attorneys' fees  
10 and costs against the defendant in any action to enforce the judgment.  
11 Notice of entry of judgment may be made by registered or certified  
12 mail, and proof of mailing may be made by affidavit of the party  
13 mailing the notice. Notice of the entry of the judgment shall read  
14 essentially as follows:

15 TO: . . . . .  
16 YOU ARE HEREBY NOTIFIED JUDGMENT was entered against you in the  
17 . . . . . Court located at . . . . . in the sum of  
18 \$. . . . ., in an action entitled . . . . ., Case No.  
19 . . . . YOU ARE FURTHER NOTIFIED that attorneys fees and costs  
20 will be awarded against you under RCW . . . if the judgment is  
21 not paid within 15 days of the date of this notice.  
22 DATED this . . . . day of . . . . ., 19. . .  
23 Signature . . . . .  
24 Typed name and address  
25 of party mailing notice

26 (4) Any impounded abandoned vehicle or item of personal property  
27 registered or titled with the department that is not redeemed within  
28 fifteen days of mailing of the notice of custody and sale as required  
29 by RCW 46.55.110(2) shall be sold at public auction in accordance with  
30 all the provisions and subject to all the conditions of RCW 46.55.130.  
31 A vehicle or item of personal property registered or titled with the  
32 department may be redeemed at any time before the start of the auction  
33 upon payment of the applicable towing and storage fees.

34 **Sec. 8.** RCW 46.55.140 and 1992 c 200 s 1 are each amended to read  
35 as follows:

36 (1) A registered tow truck operator who has a valid and signed  
37 impoundment authorization has a lien upon the impounded vehicle for

1 services provided in the towing and storage of the vehicle, unless the  
2 impoundment is determined to have been invalid. The lien does not  
3 apply to personal property in or upon the vehicle that is not  
4 permanently attached to or is not an integral part of the vehicle  
5 except for items of personal property registered or titled with the  
6 department. The registered tow truck operator also has a deficiency  
7 claim against the registered owner of the vehicle for services provided  
8 in the towing and storage of the vehicle not to exceed the sum of  
9 ~~((three))~~ five hundred dollars ~~((less))~~ after deduction of the amount  
10 bid at auction, and for vehicles of over ten thousand pounds gross  
11 vehicle weight, the operator has a deficiency claim of one thousand  
12 dollars ~~((less))~~ after deduction of the amount bid at auction, unless  
13 the impound is determined to be invalid. The limitation on towing and  
14 storage deficiency claims does not apply to an impound directed by a  
15 law enforcement officer. In no case may the cost of the auction or a  
16 buyer's fee be added to the amount charged for the vehicle at the  
17 auction, the vehicle's lien, or the overage due. A registered owner  
18 who has completed and filed with the department the seller's report as  
19 provided for by RCW 46.12.101 and has timely and properly filed the  
20 seller's report is relieved of liability under this section. The  
21 person named as the new owner of the vehicle on the timely and properly  
22 filed seller's report shall assume liability under this section.

23 (2) Any person who tows, removes, or otherwise disturbs any vehicle  
24 parked, stalled, or otherwise left on privately owned or controlled  
25 property, and any person owning or controlling the private property, or  
26 either of them, are liable to the owner or operator of a vehicle, or  
27 each of them, for consequential and incidental damages arising from any  
28 interference with the ownership or use of the vehicle which does not  
29 comply with the requirements of this chapter.

30 **Sec. 9.** RCW 46.20.435 and 1985 c 391 s 1 are each amended to read  
31 as follows:

32 (1) Upon determining that a person is operating a motor vehicle  
33 without a valid driver's license in violation of RCW 46.20.021 or with  
34 a license that has been expired for ninety days or more, or with a  
35 suspended or revoked license in violation of RCW 46.20.342 or  
36 46.20.420, a law enforcement officer may immediately impound the  
37 vehicle that the person is operating.

1       ~~(2) ((If the driver of the vehicle is the owner of the vehicle,))~~  
2     The officer shall not release the vehicle impounded under subsection  
3     (1) of this section until the owner of the vehicle:

4       (a) Establishes that any penalties, fines, or forfeitures owed by  
5     the ~~((person driving))~~ registered owner of the vehicle ~~((when it))~~ that  
6     was impounded have been satisfied; and

7       (b) Pays the reasonable costs of such impoundment and storage.

8       ~~(3) ((If the driver of the vehicle is not the owner of the vehicle,~~  
9     ~~the driver shall be responsible for any penalties, fines, or~~  
10    ~~forfeitures owed or due and for the costs of impoundment and storage.~~  
11    ~~The vehicle shall be released to the owner immediately upon proof of~~  
12    ~~such ownership.~~

13       ~~(4))~~ Whenever a vehicle has been impounded by a law enforcement  
14     officer, the officer shall immediately serve upon the driver of the  
15     impounded vehicle a notice informing the recipient of his or her right  
16     to a hearing in the district court for the jurisdiction in which the  
17     vehicle was impounded to contest the validity of the impoundment or the  
18     amount of towing or the amount of towing and storage charges. A  
19     request for a hearing shall be made in writing on the form provided for  
20     that purpose and must be received by the district court within ten days  
21     of the date of the impound. If the hearing request is not received by  
22     the district court within the ten-day period, the right to a hearing is  
23     waived and the driver is liable for any towing, storage, or other  
24     impoundment charges permitted under this chapter. Upon receipt of a  
25     timely hearing request, the district court shall proceed to hear and  
26     determine the validity of the impoundment.

27       ~~((+5))~~ (4)(a) The district court, within five days after the  
28     request for a hearing, shall notify the driver in writing of the  
29     hearing date and time.

30       (b) At the hearing, the person requesting the hearing may produce  
31     any relevant evidence to show that the impoundment was not proper.

32       (c) At the conclusion of the hearing, the district court shall  
33     determine whether the impoundment was proper, whether the driver was  
34     responsible for any penalties, fines, or forfeitures owed or due at the  
35     time of the impoundment, and whether they have been satisfied.

36       (d) A certified transcript or abstract of the driving record of the  
37     driver, as maintained by the department, is admissible in evidence in  
38     any hearing and is prima facie evidence of the status of the driving  
39     privilege of the person named in it at the time of the impoundment and

1 whether there were penalties, fines, or forfeitures due and owing by  
2 the person named in it at the time the impoundment occurred.

3 **Sec. 10.** RCW 46.61.625 and 1965 ex.s. c 155 s 73 are each amended  
4 to read as follows:

5 (1) No person or persons shall occupy any trailer while it is being  
6 moved upon a public highway, except a person occupying a proper  
7 position for steering a trailer designed to be steered from a rear-end  
8 position.

9 (2) No person or persons may occupy a vehicle while it is being  
10 towed by a tow truck.

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